

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

05/15/2002

CLERK OF THE COURT
FORM V000A

HONORABLE MICHAEL D. JONES

P. M. Espinoza
Deputy

CV 2001-093014

FILED: _____

JANET COLLINS

JANET COLLINS
1610 W WINCHESTER WAY
CHANDLER AZ 85248-0000

v.

TYLAN MILLER

TYLAN MILLER
1239 W BOXELDER CIR
CHANDLER AZ 85210-0000

CHANDLER JUSTICE COURT
REMAND DESK-SE

MINUTE ENTRY

This Court has jurisdiction of this Civil appeal pursuant to the Arizona Constitution Article VI, Section 16, and A.R.S. Section 12-124(A).

This matter has been under advisement since March 22, 2002, the date by which Appellant was to file a reply memorandum. No reply memorandum was filed on that date, but this Court has considered the memoranda filed and the record of the trial court's pleadings which have been filed with the Superior Court.

Appellant has requested a Trial *de Novo* in this case. Appellant complains that there is no record upon which to predicate her appeal. However, as Appellee appropriately points out Rule 1(b)¹ provides that a Trial *de novo* should not be

¹ Superior Court Rules of Appellate Procedure-Civil.
Docket Code 019

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granted when a party who had the opportunity to request the record of the proceedings be made, failed to do so. The record of pleadings from the Chandler Justice Court do not reflect any request from Appellant that the hearing held on December 4, 2001 be recorded.

IT IS THEREFORE ORDERED denying the request for trial *de Novo*.

When one party fails to request that a record be prepared or to order that record for appeal, this Court must presume that the missing portion of the record supports the decision of the trial court.²

Finding no error in the judgment of December 4, 2001, this Court must affirm the trial court's order.

IT IS ORDERED affirming the judgment of December 4, 2001 in its entirety.

IT IS FURTHER ORDERED remanding this matter back to the Chandler Justice Court for all future and further proceedings in this case.

² See State v. Mendoza, 181 Ariz. 472, 891 P.2d 939 (1995); Baker v. Baker, 183 Ariz. 70, 900 P.2d 764 (1995).